

### REMARKS

Claims 1-8, 14, 16-24 and 32 are pending with claims 3-5, 7, and 17 previously being withdrawn from consideration.

The Examiner rejected claims 1-2, 6, 8, 14, 16, and 18-24 under 35 U.S.C. §102(b) as being anticipated by Kamiya et al., U.S. Patent No. 5,192,301 ("Kamiya"), or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Kamiya.<sup>1</sup>

Claims 1-2, 6, 8, 14, 16, and 18-24 cover compositions that include a first collection of particles having a first shape and a second collection of particles having a second shape different than the first shape. Kamiya never discloses such compositions. Instead, while Kamiya discloses various embodiments of plugs (see, e.g., Kamiya Figs. 1-29), he discloses using only a single plug for his intended purpose. (See, e.g., id. col. 1, lines 11-14, col. 2, lines 37-60 and col. 8, lines 65-68.) Nowhere does Kamiya disclose or render obvious a composition that includes a collection of particles, let alone a collection of the particles as required by the claims.

While far from clear, it appears to possibly the Examiner's position that Kamiya's various distinct, embodiments of plugs, when taken together, somehow form a collection of particles, as required by the claims. Such a position is clearly improper.

Kamiya discloses distinct embodiments; they are not combined. Thus, he simply does not disclose a collection of particles having different shapes, as required by the claims. And, even if Kamiya's disclosure of distinct embodiments of plugs could somehow be considered to be a collection of particles, they most certainly could not be considered a **composition** that includes such particles, in the manner required by the claims.

Nor would it have been obvious to one skilled in the art to modify Kamiya to provide the compositions covered by the claims. Kamiya discloses a closing plug for therapeutic use within a body duct or defect. (Id., col. 1, lines 37-39.) As noted above, all of Kamiya's embodiments involve a single plug. Never does he disclose the use of more than one of his plugs. Further, Kamiya discloses:

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<sup>1</sup> Applicants believe that claim 32 is pending and should be examined.

For the purpose of achieving the above-described object of the invention, the inventors considered that the best method of closing a body defect is to insert a closing plug percutaneously because it does not require surgical operations and intensive investigations were made on the method. (Id., col. 2, lines 37-42.)

He also discloses:

The inventors came to consider that the only way to solve the above contradictions is to use a plug of small size when it is inserted and which changes to a bigger size when it is fixed in a defect of the body part. For the purpose of achieving this, it was found to be useful that a plug should be made of a shape memory material. (Id., lines 57-62, emphasis provided.)

Thus, after reading Kamiya's teachings, it would not have been obvious to one skilled in the art to modify Kamiya to provide the compositions covered by the claims. Applicants therefore request reconsideration and withdrawal of the rejection of the claims.

Applicants believe the application is in condition for allowance, which action is requested.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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